

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DAVID MACHADO CHAVEZ,

Plaintiff,

v.

COMMANDER LARSON, et al.,

Defendants.

Case No. 6:24-cv-01605-JR

ORDER TO DISMISS

NELSON, District Judge

Plaintiff, an adult in custody at the Marion County Jail, brings this 42 U.S.C. § 1983 civil rights case as a self-represented litigant. On December 13, 2024, Magistrate Judge Jolie A. Russo issued an Order (ECF No. 8) finding that plaintiff's Complaint failed to state a claim upon which relief may be granted and ordering plaintiff to file an Amended Complaint or face dismissal of this action pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). Judge Russo advised plaintiff of the procedural and substantive deficiencies of his Complaint and gave him 30 days to file an Amended Complaint. Currently before the court is plaintiff's Amended Complaint (ECF No. 9).

Plaintiff's Amended Complaint does not cure the deficiencies noted in Judge Russo's Order. Procedurally, plaintiff's Amended Complaint does not contain a "short and plain statement of the claim showing that [he] is entitled to relief as required under Rule 8 of the Federal Rules of Civil Procedure. Instead, plaintiff's Amended Complaint is in the form of a six-page narrative statement describing a variety of occurrences at the Jail. In addition, plaintiff's Amended Complaint does not cure the substantive deficiencies noted in Judge Russo's Order. Specifically, plaintiff does not allege facts establishing a cognizable claim for unconstitutional

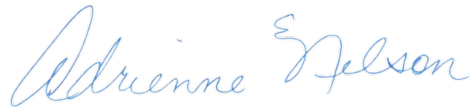
conditions of confinement related to his fall or that defendants were deliberately indifferent to a serious medical need. Accordingly, plaintiff's Amended Complaint fails to state a claim upon which relief may be granted, and must be dismissed under 28 U.S.C. §§ 1915(e)(2) and 1915A(b). Because plaintiff was previously notified of the deficiencies of his pleading and has failed to correct them, the dismissal is without leave to amend. *See Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 1007 (9th Cir. 2009) (where a "plaintiff has previously been granted leave to amend and has subsequently failed to add the requisite particularity to his claims, the district court's discretion to deny leave to amend is particularly broad") (quotations and citations omitted).

CONCLUSION

Based on the foregoing, IT IS ORDERED that plaintiff's Amended Complaint is DISMISSED pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b).

IT IS SO ORDERED.

DATED this 3rd day of February, 2025.

A handwritten signature in blue ink that reads "Adrienne Nelson". The signature is written in a cursive, flowing style.

Adrienne Nelson
United States District Judge